

24-1585; 24-1601; 24-1636; 24-1639; 24-1659; 24-1662;  
24-1671; 24-1697; 24-1704; 24-1708; 24-1763; 24-1764;  
24-1766; 24-1831; 24-1832; 24-1833; 24-1849

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

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United Healthcare Services, Inc., *Plaintiff-Appellant*,  
v.  
Gilead Sciences, Inc., et al., *Defendants-Appellees*  
Case No. 24-1585

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Blue Cross and Blue Shield of Florida, Inc., et al., *Plaintiffs-Appellants*,  
v.  
Gilead Sciences, Inc., et al., *Defendants-Appellees*  
Case No. 24-1601

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Fraternal Order of Police, Miami Lodge 20, Insurance Trust Fund, et al.,  
*Plaintiffs-Appellants*,  
v.  
Gilead Sciences, Inc., et al., *Defendants-Appellees*  
Case No. 24-1636

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United Healthcare Services, Inc., *Plaintiff-Appellant*,  
v.  
Gilead Sciences, Inc., et al., *Defendants-Appellees*  
Case No. 24-1639

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Humana, Inc., *Plaintiff-Appellant*,  
v.  
Teva Pharmaceuticals USA, Inc., *Defendant-Appellee*  
Case No. 24-1659

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Humana, Inc., *Plaintiff-Appellant*,  
v.  
Gilead Sciences, Inc., et al., *Defendants-Appellees*  
Case No. 24-1662

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Blue Cross and Blue Shield of Florida, Inc., et al., *Plaintiffs-Appellants*,  
v.  
Gilead Sciences, Inc., et al., *Defendants-Appellees*  
Case No. 24-1671

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Blue Cross and Blue Shield of Florida, Inc. et al., *Plaintiffs-Appellants*,  
v.  
Teva Pharmaceuticals USA, Inc., *Defendant-Appellee*  
Case No. 24-1697

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Centene Corporation, *Plaintiff-Appellant*,  
v.  
Gilead Sciences, Inc., et al., *Defendants-Appellees*  
Case No. 24-1704

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Triple-S Salud, Inc., *Plaintiff-Appellant*,  
v.  
Teva Pharmaceuticals USA, Inc., *Defendant-Appellee*  
Case No. 24-1708

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Health Care Service Corporation, *Plaintiff-Appellant*,  
v.  
Gilead Sciences, Inc., et al., *Defendants-Appellees*  
Case No. 24-1763

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Triple-S Salud, Inc., *Plaintiff-Appellant*,  
v.  
Gilead Sciences, Inc., et al., *Defendants-Appellees*  
Case No. 24-1764

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Centene Corporation, *Plaintiff-Appellant*,  
v.  
Teva Pharmaceuticals USA, Inc., *Defendant-Appellee*  
Case No. 24-1766

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Kaiser Foundation Health Plan, Inc., *Plaintiff-Appellant*,  
v.  
Gilead Sciences, Inc., et al., *Defendants-Appellees*  
Case No. 24-1831

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Blue Cross and Blue Shield of Kansas City, *Plaintiff-Appellant*,  
v.  
Gilead Sciences, Inc., et al., *Defendants-Appellees*  
Case No. 24-1832

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Kaiser Foundation Health Plan, Inc., *Plaintiff-Appellant*,  
v.  
Teva Pharmaceuticals USA, Inc., *Defendant-Appellee*  
Case No. 24-1833

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Blue Cross and Blue Shield of Kansas City, *Plaintiff-Appellant*,  
v.  
Teva Pharmaceuticals USA, Inc., *Defendant-Appellee*  
Case No. 24-1849

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On Appeal from the  
United States District Court for the Northern District of California,  
No. 3:19-cv-02573-EMC, The Honorable Edward M. Chen

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**APPELLEES' UNOPPOSED MOTION FOR EXTENTION OF  
TIME TO FILE ANSWERING BRIEF(S)**

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Pursuant to Circuit Rule 31-2.2(b), Appellees respectfully move for a 60-day extension of time to file their responsive briefing, which would extend the deadline from November 18, 2024 to January 17, 2025. The reasons for this request are as follows:

1. This is a complex pharmaceutical antitrust case that culminated in a six-week jury trial before the Honorable Edward M. Chen in which the jury heard from 36 witnesses, saw 350 exhibits, and listened to more than ten hours of opening and closing statements. Prior to that, Judge Chen granted summary judgment in favor of Defendants on several of Plaintiffs' claims. On appeal, Plaintiffs argue that the jury verdict should be reversed and that Judge Chen erred by granting partial summary judgment in favor of Defendants. Plaintiffs also raise several other challenges to other of Judge Chen's pre-trial orders.

2. This appeal constitutes seventeen consolidated cases: Appeal Nos. 24-1585, 24-1601, 24-1636, 24-1639, 24-1659, 24-1662, 24-1671, 24-1697, 24-1704, 24-1708, 24-1763, 24-1764, 24-1766, 24-1831, 24-1832, 24-1833, and 24-1849. There are more than one dozen Appellants represented by three different sets of counsel.

3. On March 18, 2024, the Court entered a Scheduling Order, which ordered Appellants to file their opening brief(s) by June 5, 2024. Dkt. 2.<sup>1</sup>

4. On May 7, 2024, Appellants sought, pursuant to Circuit Rule 31-2.2(a), a 30-day streamlined extension of time to file their opening brief(s) until July 5, 2024. Dkt. 6. That same day, the Court granted that request. Dkt. 7.

5. On May 14, 2024, Appellees moved to consolidate the 17 docketed appeals in this matter and for the Court to order Appellants to file a single consolidated opening brief. Dkt. 11.

6. On June 7, 2024, the Court consolidated the 17 docketed appeals in this matter. Dkt. 20. It also denied “appellees’ request that separately represented groups of appellants be required to file a single consolidated opening brief,” while still recognizing that “joint briefing is preferred.” *Id.* at 5. The Court further said, “If the separately represented groups file independent briefs, counsel must coordinate to limit the length of the briefs through joinder or incorporation by reference to avoid burdening the Court.” *Id.*

7. On June 17, 2024, Appellants moved, pursuant to Circuit Rule 31-2.2(b), for an additional 60-day extension to file their opening brief(s). Dkt. 21. On

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<sup>1</sup> Cites to “Dkt.” refer to *United Healthcare Services, Inc. v. Gilead Sciences, Inc.*, No. 24-1585 (9th Cir.), which has been consolidated with all above-referenced actions. *See* Dkt. 20.

June 21, 2024, the Court granted that request. Dkt. 22. The Court ordered Appellants to file their opening brief(s) by September 3, 2024.

8. On August 20, 2024, Appellants moved, pursuant to Circuit Rule 31-2.2(b), for an additional 14-day extension to file their opening briefs. Dkt. 25. Appellants explained that “Appellants have concluded that the best approach for presenting the issues raised by these appeals to the Court is to proceed with two briefs of no more than 14,000 words, each of which will deal with separate and non-duplicate issues, and each of which will be joined by all three groups of appellants.” *Id.* at 3 ¶10. Further, Appellants noted, “Appellees would be free to respond with a single brief of enlarged words or two briefs of commensurate length.” *Id.*

9. On August 26, 2024, the Court granted Appellants’ motion for an additional 14-day extension. Dkt. 26. The Court ordered Appellants to file their consolidated opening brief(s) by September 17, 2024. *Id.* The Court also noted that the consolidated answering brief(s) were due October 17, 2024. *Id.*

10. In total, Appellants thus received a 104-day extension from the Court’s initial scheduling order, which extended their opening briefs deadline from June 5, 2024 to September 17, 2024.

11. On September 17, 2024, Appellants filed two opening briefs, which together constitute 27,813 words across 126 pages. Dkts. 35, 36.

12. On October 4, 2020, Appellees sought, pursuant to Circuit Rule 31-2.2(a), a 30-day streamlined extension of time to file their responsive briefing until November 18, 2024. Dkt. 41. That same day, the Court granted that request. Dkt. 42.

13. Appellees are diligently coordinating their responsive arguments. Appellees must respond to 126 pages of briefing from Appellants, which raise complex antitrust issues involving a six-week jury trial and summary judgment rulings. Given the volume of Appellants' opening briefs and the complexity of the issues in this case, Appellees seek a 60-day extension to allow them to prepare their responsive briefing. This would extend their deadline to January 17, 2025.

14. This is Appellees' second request for an extension of time to file their responsive briefing. Appellees have diligently considered the appropriate length for this requested extension and intend to file their responsive briefing within the time requested. In no event do Appellees anticipate seeking anything beyond an additional 14-day extension beyond this extension request, which would grant Appellees the same total extension as Appellants.

15. Appellants informed Appellees that they do not oppose Appellees' requested extension.

16. The court reporter is not in default with regard to any designated transcripts.

## CONCLUSION

For these reasons, the Court should grant Appellees' motion for a 60-day extension until January 17, 2025 to file their responsive briefing.

Dated: October 31, 2024

Respectfully submitted,

/s/ Devora W. Allon

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## **CERTIFICATE OF COMPLIANCE**

Pursuant to Federal Rule of Appellate Procedure 32(a)(7), I hereby certify that the foregoing Appellees' Unopposed Motion for Extension of Time to File Answering Brief(s) is proportionately spaced, has a typeface of 14 points, and is no more than 15 pages.

Dated: October 31, 2024

Respectfully submitted,

/s/ Devora W. Allon

Devora W. Allon

### **CERTIFICATE OF SERVICE**

I hereby certify that on October 31, 2024, I electronically filed the Appellees' Motion to Consolidate Related Appeals and Consolidate Briefing with the Clerk of the Court using the CM/ECF system, which will automatically send an e-mail notification of such filing to the attorneys of record who are registered CM/ECF users.

Executed on October 31, 2024.

Respectfully submitted,

/s/ Devora W. Allon

Devora W. Allon